

## **MINUTES**

### **INSOLVENCY LAW COMMITTEE OF THE BUSINESS LAW SECTION OF THE STATE BAR OF CALIFORNIA**

**May 17, 2002**

The monthly meeting of the Insolvency Law Committee of the Business Law Section of the State Bar of California was held on May 17, 2002, at 10:00 a.m., at the Hilton Torrey Pines, LaJolla, CA.

The following members of the Committee were present at the meeting:

Peter Bronson  
Lynn Ernce  
Rob Harris  
Dean Kirby  
Rhonda Nelson  
Tom Phinney  
Tracy Schweitzer  
Geraldine Valdez  
Ben Young

The following members appeared by telephone.

Bruce Emard  
Radmila Fulton  
Sandy Lavinga  
Greg Lunt  
Ben Murphy  
Larry Peitzman  
David Shemano

Ben Young called the meeting to order at approximately 10:00 a.m.

### **Approval of Minutes: April 4, 2002**

Minutes approved, unanimously.

### **Election of Officers for 2002-03 Term**

Rob Harris will proceed to Committee Chair.

Tracy Schweitzer is resigning rotation to Vice Chair, however, will remain on Committee.

Unanimous vote approving slate of officers:

Chair: Rob Harris  
Vice Chair: Geraldine Valdez  
Secretary: Peter Bronson

### **Program for Third Annual Spring Meeting (Business Law and IP sections) - La Costa, May 2002 (same weekend as CBF annual conference)**

**Catapult related topic (Coordinator - Kathy Phelps)**

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### **Website report and Constituency Outbreak Project (Rob Harris)**

Website - idea to improve level of service to constituents and increase membership.

Open meetings - Policy statement: Meetings are open to anyone. Some meetings may be advertised more than others.

Constituency outreach - Bar has created constituency list. Idea is to use list as an e-Blast.

## **Coordination with the Corporations Committee on Corporate Conversion Bill (Peter Bronson and Rob Harris)**

SB399 - Senate wanted notice provision and penalty for violation of notice provision. Corporations Committee wanted ILC support for not supporting notice/penalty provision. Because of politics and the view that ILC was holding up the bill, ILC withdrew its comments and proposed changes.

Problem has been raised that the conversion provisions that ILC viewed as problematic exists in other areas of corporate conversion.

## **Recruiting of New Members**

Need to fill 6-3 year term

1-1 year term

Emard/Shemano filled 1-year slots. Need to reapply to fill a 3-year slot.

Only 1 application - Bankruptcy Professor at Thomas Jefferson School of Law fka Western State.

Deadline to apply - soon. Rob has 3 potential candidates. Peter has 1 potential.

Applications - June

Vote - July

Want people to be able to attend first meeting.

Application - State Bar website. Our website has button to click for application.

## **Progress Reports on Current Projects**

- a) Legislation to Automatically Re-index California Exemptions in Amounts and at Times Periodically Established Under the Bankruptcy Code (Rob Harris)

Someone has been thinking about indexing besides ILC. A 2001 Amendment, it only addresses grubstake. Our proposal addresses grubstake and personal property homestead.

Meredith is trying to track down who proposed the amendment to Code of Civil Procedure. ILC wanted all exemptions indexed, not only half the exemptions.

Carry over to next meeting and hopefully Rob will have a report on who proposed current law.

b) CLRC Items of Interest

Nothing germane to ILC.

c) Coordinate with LABF on proposing new procedures for California Bankruptcy Courts to become more user friendly (Ben Murphy, Marc Cohen)

Ben Murphy - General order for debtors to assist with first day orders. We are in the implementation period. Needs to be posted on website.

Pending legislation - conferees have come to an agreement regarding homestead issue. Abortion clinic dischargeability now the issue holding up legislation.

## **New Projects**

a) ILC Comment re Attorney Liability Provisions of the Bankruptcy Bill (Judy Gibbs)

Attorney liability - some softening - debtor's attorneys would still have to be debt counselors.

b) Petition Preparer issues, including SB 1459 (Steven Johnson)

## **Education, Programs and Publications:**

a) Article for Business Law News? (We have been asked to have the final draft of an article by June 30, 2002)

## **Legislative Liaison Report (Lynn Ernce)**

AB 2914 - Proposed Business and Professions Code amendment: Attorneys must disclose prior/pending bankruptcy to clients. (Proposed by assembly person Wiggins).

Dean - draft comment.

ILC - Legislation not a particularly good idea, comment to be against legislation.

Vote - unanimous

AB 2473 - Bankrupt issuer of gift certificate must continue to honor gift certificates.

Committee to comment - Rob Harris.

Oppose and suggest amendment language that ties to bankruptcy code - priority be cognizant that this is a consumer protection statute.

AB 1948 - Bankruptcy local health care district need not pay its share of operating expenses to the local agency information commission (LAFCO).

ILC not to comment. Lynn will speak with Carol Lucas, Chair of Healthcare Committee to see if they want to comment.

AB 2144 - Life/Health Insurance Guarantee Association obligation when succeeding to rights of insolvent insurer.

Lynn - Check with Insurance Committee to see if they are interested in commenting.

SB 1522 - Repeals and restates Division 1 of the UCC - more germane to UCC Committee.

Most of bill is definitions and conforming changes.

One controversy is a choice of law provision.

If UCC is not commenting or we have alternate comments - does ILC want to comment? No!

Ben SB 1459 - Unlawful practice of law.

Business Law News Article -

Tom Phinney - wants to reprint article he wrote for California Bankruptcy Journal.

Meeting adjourned.

Next meeting: July 18, 2002, in Oakland, California.

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